

No. 23-1890

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

TAMER MAHMOUD, ET AL.,

Plaintiffs-Appellants,

v.

MONIFA B. MCKNIGHT, IN HER OFFICIAL CAPACITY AS SUPERINTENDENT
OF THE MONTGOMERY COUNTY BOARD OF EDUCATION, ET AL.,

Defendants-Appellees.

On Appeal from the United States District Court
for the District of Maryland, No. 8:23-cv-01380-DLB
Before the Honorable Judge Deborah L. Boardman

**RESPONSE OF DEFENDANTS-APPELLEES
TO MOTION FOR LEAVE TO FILE AMICUS BRIEF**

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September 6, 2023

Defendants-Appellees respectfully submit this response pursuant to the Court's September 6, 2023 notice requesting a response to the Ethics and Public Policy Center's motion for leave to file an amicus brief. *See* Dkt. 33.

Plaintiffs-Appellants filed an emergency motion for injunction pending appeal on Monday, August 28, 2023. Dkt. 8. On Tuesday, August 29, 2023, this Court issued a notice requesting that Defendants-Appellees respond to the motion for injunction pending appeal by Tuesday, September 5, 2023. Dkt. 9.

On Friday, September 1, 2023, counsel for the Ethics and Public Policy Center emailed counsel for Defendants-Appellees to request consent to file an amicus brief in support of Plaintiffs-Appellants' motion for injunction pending appeal. Counsel for Defendants-Appellees responded immediately, writing, "We consent to a brief filed on or before Monday. We do not consent to a brief filed on or after the court-ordered date for opposing the motion." Counsel for Defendants-Appellees provided the same response to every amicus that sought consent to file a brief in this case on or after Friday, September 1, 2023.

The Ethics and Public Policy Center filed a motion for leave to file an amicus brief on September 6, 2023, one day after Defendants-Appellees' deadline for opposing the motion for injunction pending appeal. The Ethics and Public Policy Center accordingly stated in their motion for leave to file that "Counsel for Defendants-Appellees have opposed the filing of this brief." Dkt. 30-1 ¶ 5.

Defendants-Appellees have reviewed the proposed amicus brief of the Ethics and Public Policy Center. Dkt. 30-2. While the proposed brief presents the irrelevant argument that Montgomery County Public Schools' English Language Arts curriculum represents "a radical worldview" that "is fundamentally incompatible with Christian anthropology and Catholic teaching," *id.* at 3, Defendants-Appellants do not oppose the Ethics and Public Policy Center's motion for leave to file the proposed brief.

Respectfully submitted,

/s/ Alan E. Schoenfeld

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CERTIFICATE OF COMPLIANCE

Pursuant to Fed. R. App. P. 32(g)(1), the undersigned hereby certifies that this document complies with the type-volume limitation of Fed. R. App. P. 27(d)(2).

1. Exclusive of the exempted portions of the document, as provided in Fed. R. App. P. 32(f), the document contains 304 words.

2. The document has been prepared in proportionally spaced typeface using Microsoft Word for Office 365 in 14 point Times New Roman font. As permitted by Fed. R. App. P. 32(g)(1), the undersigned has relied upon the word count feature of this word processing system in preparing this certificate.

/s/ Alan E. Schoenfeld

ALAN E. SCHOENFELD

September 6, 2023

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of September, 2023, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Fourth Circuit using the appellate CM/ECF system. Counsel for all parties to the case are registered CM/ECF users and will be served by the appellate CM/ECF system.

/s/ Alan E. Schoenfeld

ALAN E. SCHOENFELD